

REMARKS

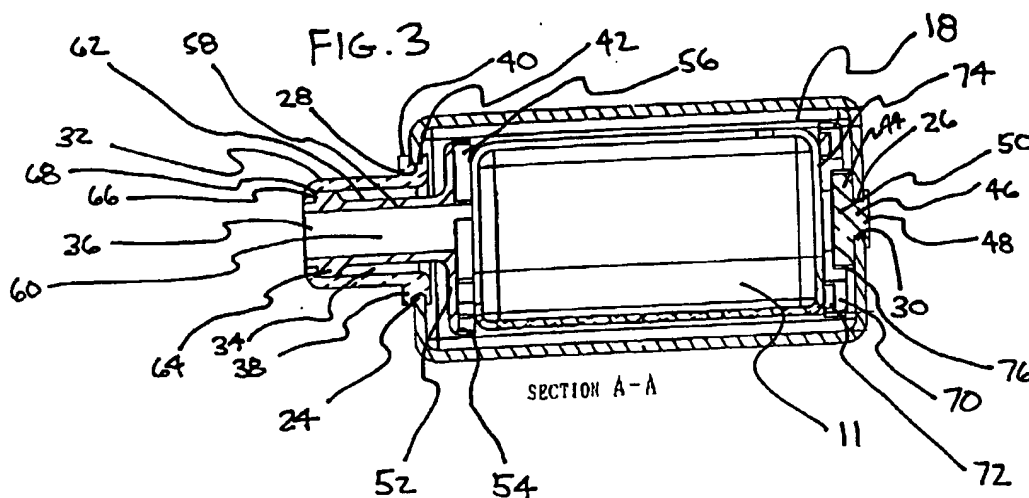
Claims 2-8, 11-21, and 24-47 are pending. Claims 48-53 have been withdrawn. Claims 20, 26, 36, 38 and 39 have been amended.

§ 102 Rejections

Claims 2-8, 11-17, 20-22, 24-25, 27, 30-36, 38-40, and 42-45 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by US Pre-Grant Publication 2001/0036289 (Nepomuceno). Nepomuceno discloses in the Summary of The Invention:

A receiver assembly for a hearing aid device, the assembly comprising a case having an inner cavity, **one or more mounts** disposed within the inner cavity of the case, and a receiver disposed within the inner cavity of the case and connected to the mounts such that **the receiver is substantially suspended within the inner cavity of the case**. The mounts are made of a material that is suitable to provide dampening of any vibration transmission from the receiver to the case. Most significantly, acoustical noise from the receiver and the resulting distortion, feedback, and/or interference within the other components of the hearing aid device is substantially eliminated.

Figure 3 is reproduced below showing the receiver suspended on mounts 52, 70 within a case 16. Nepomuceno explains that the purpose of the mounts is for vibration dampening: "The mounts 52 and 70 dampen vibrations emanating from the receiver 11 and minimize vibrations from transmitting to the case 16." Nepomuceno, ¶ 0023.



The receiver of Applicants' claimed invention (as amended) calls for a jacket or epoxy jacket that at least partially envelops, enfolds, encapsulates, lies on, or closely interfits with a housing. Nepomuceno does not teach or suggest such an interrelationship between the jacket and receiver housing. Further, the claimed invention uses the thickness and the mass of the jacket to suppress vibrational feedback, unlike Nepomuceno, which uses elastomeric mounts to dampen vibrations. Thus, Nepomuceno actually teaches away from use of the jacket's thickness and mass to suppress vibrational feedback. With these distinctions in mind, Applicants will now address each claim in turn.

Regarding all the claims, the Office Action asserts that Nepomuceno discloses a jacket having a thickness and mass adapted to suppress vibrational feedback. Applicants respectfully disagree for the reason expressed above. Nepomuceno teaches use of elastomeric mounts to dampen vibrations and says nothing of adapting the thickness or mass of the case to suppress vibrational feedback. In fact, Nepomuceno *repeatedly* teaches that it is **the mounts** that are used for vibration dampening: "The **first mount 52** is preferably made of an elastomeric material, such as silicon rubber. However, any material that can be utilized as a **vibration dampening spring** may also be used." (§ 0021); "The **second mount 70** is preferably made of an elastomeric material, such as silicon rubber. However, any material that can be utilized as a **vibration dampening spring** may also be used." (§ 0022); "The **mounts 52 and 70 dampen vibrations** emanating from the receiver 11 and minimize vibrations from transmitting to the case 16." (§ 0023); "The **mounts 102 and 120** act together to **dampen vibration transmission** from the receiver 11." (§ 0025); "The **mounts dampen any vibration transmission** from the receiver to the case and from the case to the receiver." (Abstract). Applicants submit that Nepomuceno would have no motivation to adapt the thickness or mass of the jacket for vibration dampening because the vibration dampening is accomplished by the mounts. Thus, Applicants submit that all of the rejected claims are allowable over Nepomuceno for at least this independent reason.

Regarding independent claims 2 and 25, the Office Action asserts that Nepomuceno discloses a jacket "lying on" sides of a housing as claimed. Applicants respectfully traverse this rejection. The receiver 11 in Nepomuceno is clearly "suspended" within an inner cavity 18 of the case 16 via mounts 52, 70. Thus, the case 16 of Nepomuceno cannot be "lying on" the receiver

because the receiver is in fact **suspended** within the case. Thus, claims 2 and 25 are allowable over Nepomuceno for at least this additional reason.

Independent claim 20 has been amended to call for a jacket “enveloping” at least a portion of said housing. Applicants submit that Nepomuceno does not teach or suggest such a jacket, and therefore claim 20 is allowable thereover for at least this additional reason.

Independent claim 26 has been amended to call for a jacket having sections for “at least partially enfolding” said sides of said housing. Applicants submit that Nepomuceno does not teach or suggest such a jacket, and therefore claim 26 is allowable thereover for at least this additional reason.

Independent claim 31 calls for a jacket having a rectangular cross-section “for closely interfitting” with four of said six sides of said housing. The Office Action asserts that Nepomuceno discloses such a jacket. Applicants respectfully disagree. The receiver 11 of Nepomuceno is suspended within an inner cavity 18 of the case 16. Its case therefore does not have a rectangular cross-section for “closing interfitting” with sides of the receiver 11. Accordingly, Applicants submit that claim 31 is allowable over Nepomuceno for at least this additional reason.

Independent claim 36 calls for an epoxy jacket “encapsulating” said housing. The Office Action asserts that Nepomuceno discloses such a jacket. Applicants respectfully disagree. The receiver 11 of Nepomuceno is suspended within an inner cavity 18 of the case 16. Its case therefore does not “encapsulate” the receiver 11. Accordingly, Applicants submit that claim 36 is allowable over Nepomuceno for at least this additional reason.

Turning now to the dependent claims, they are allowable over Nepomuceno for at least the additional reason that the claims from which they depend are allowable thereover. In addition, dependent claims are allowable thereover for at least the following additional reasons set forth below.

Regarding claims 4, 6-8, 11, 27, 32, 39, and 43, Nepomuceno does not teach or suggest a jacket primarily made of Kapton or made of a soft magnetic material or epoxy or a jacket that includes silicone.

Regarding claims 13-15 and 33, the Office Action cites paragraph 34 of Nepomuceno as disclosing a jacket that is preconfigured to be press-fit directly onto said housing, a jacket that is

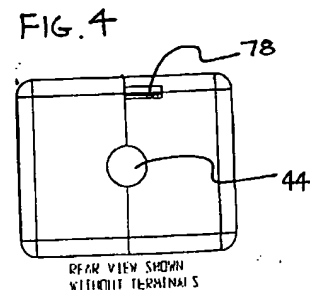
welded onto said housing, a jacket that is adhered to said housing, and a jacket that is welded to said sides of said receiver. Applicants respectfully disagree. Paragraph 34 of Nepomuceno reads as follows:

It is apparent that one or more steps of assembly may be eliminated by integrally forming various components with other components of the device as described herein. Furthermore, the method used to join the case portions will depend on material selections. If plastic or metal is used for the case portions, they may be joined by welding, adhesive, or other mechanical means.

The above passage is addressing the manner of joining the two halves of the case portions together, not how the case may be affixed or joined to the receiver housing. The receiver of Nepomuceno is suspended within an inner cavity of the case, and therefore, the case would not be press-fit directly onto the receiver, or welded or adhered to the receiver. If it were, it would not be suspended within the case. Thus, Applicants respectfully submit that the quoted paragraph from Nepomuceno does not support rejection of claims 13-15 or 33.

Claim 16 calls for a **layer** of acoustical dampening material below said jacket. Nepomuceno does not teach or suggest a **layer** of acoustical dampening material. Nepomuceno only discloses use of **mounts** as dampening structures.

Claims 17, 30, 40, and 45 call for the jacket being generally cylindrical in shape. The Office Action cites FIG. 3 of Nepomuceno as support. The rear view of the side cross-section shown in FIG. 3 is actually shown in FIG. 4, reproduced here:



Applicants submit that the case disclosed in Nepomuceno is clearly not generally cylindrical in shape.

Regarding claim 11, the Office Action cites paragraph 11 as support for a disclosure of a jacket adapted to shield said converting means from the effects of electromagnetic interference. However, Nepomuceno, in discussing “interference,” is referring to the mounts, not to the jacket:

The mounts are made of a material that is suitable to provide dampening of any vibration transmission from the receiver to the case. **Most significantly**, acoustical noise from the receiver and the resulting distortion, feedback, and/or **interference** within the other components of the hearing aid device is substantially eliminated.

Claim 24 calls for a transducer of claim 20, further in combination with a second transducer having a second housing, said jacket surrounding at least a portion of said housing of said transducer and at least a portion of said second housing of said second transducer. The Office Action does not cite anywhere in Nepomuceno for such a teaching or suggestion. In fact, there is none. Every embodiment of Nepomuceno shows and describes a single receiver surrounded by a single case.

Regarding claim 38, Nepomuceno fails to disclose an epoxy jacket encapsulating said housing, so it therefore also fails to disclose an epoxy jacket having a generally uniform thickness.

§ 103 Rejections

Dependent claims 18-19, 26, 28-29, 37, 41, and 46-47 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Nepomuceno in view of U.S. Patent No. 6,456,720 (Brimhall et al.). Applicants respectfully traverse these rejections for at least the reason that the independent claims from which the rejected claims depend are allowable. Applicants further submit that rejected claims are allowable for at least the following additional reasons set forth below.

Regarding claims 18-19, 41, and 46, the Office Action contends that because “Nepomuceno does not restrict to any specific shapes, . . . it would have been obvious to a [sic] one [of] ordinary skill in the art at the time of the invention was made to use a different shape for a particular application.” Office Action at 5. Applicants respectfully traverse this rejection because there has been no identification of a teaching or suggestion of a trapezium or D-shaped jacket. It is not sufficient to point to the *absence* of a teaching or suggestion as a basis for an assertion that it would have been obvious to supply a missing claim element. *See, e.g.*, MPEP § 706.02(j): “there must be some suggestion or motivation, either **in the references themselves** or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings.”

Regarding independent claim 26, it is believed to be allowable for the reasons set forth above, including that Nepomuceno does not disclose a jacket having sections for at least partially enfolding said sides of said housing. Brimhall does not disclose such a jacket either.

Regarding claims 28, 29, 37, and 47, Applicants submit that neither Nepomuceno nor Brimhall teaches or suggests combining an acoustic receiver having a jacket and a circuit board as claimed. The Office Action notes that the printed circuit board is well known, but the mere fact that a printed circuit board is well known is not sufficient to support the instant obviousness rejection. There must be some suggestion or motivation in the knowledge generally available to one of ordinary skill in the art to modify the reference or combine reference teachings. *See, e.g.*, MPEP § 706.02(j). The fact that PCBs are within the knowledge of one of ordinary skill in the art does not mean that such knowledge imparts a suggestion or motivation to one of ordinary skill in the art to modify either Nepomuceno or Brimhall or combine them to arrive at Applicants' claimed invention. To conclude otherwise would impermissibly apply hindsight reconstruction.

For at least the foregoing reasons, Applicants submit that the pending claims as amended are allowable over the rejections cited.

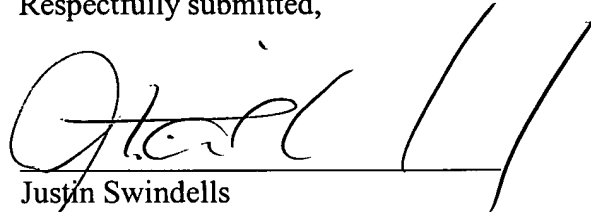
Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

A check is enclosed for \$120.00 to cover the fee for the extension of time. The Commissioner is authorized to deduct any additional fees required (except for payment of the issue fee) from or to credit any overpayment to Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47161-00018USPT.

Date: January 26, 2005

Respectfully submitted,



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